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SUMMARY RECORD OF THE 46th MEETING

Chairman: Mr. LEHMANN (Denmark)

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TRIBUTE TO THE SECRETARY OF THE COMMITTEE

COMPLETION OF THE COMMITTEE'S WORK

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The meeting was called to order at 3.35 p.m.

AGENDA ITEM 146: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued) (A/C.6/50/L.12)

1. The CHAIRMAN said that he took it that the Committee wished to adopt draft resolution A/C.6/50/L.12 entitled "Measures to eliminate international terrorism".

2. Draft resolution A/C.6/50/L.12 was adopted.

3. Mr. AMIRBEKOV (Azerbaijan) stressed the importance of the struggle against all forms of international terrorism and the essential nature of the Declaration on Measures to Eliminate International Terrorism. His delegation had joined in the consensus but was not entirely satisfied with the text of the draft resolution because it believed that the threat posed by international terrorism to the sovereignty and territorial integrity of States was an extremely serious problem which should have been specifically mentioned. Azerbaijan's position in that regard was set forth in document A/C.6/50/4.

4. Mr. ABOU-HADID (Syrian Arab Republic) said that while the Syrian Arab Republic condemned international terrorism in all its forms and manifestations, it also felt that a distinction must be made between terrorism and the exercise by peoples under foreign occupation of the right to struggle for their freedom in accordance with the Charter of the United Nations and the principles of international law.

5. Mrs. BAYKAL (Turkey) said that Turkey attached particular importance to the question of terrorism, having itself suffered from that scourge. Referring to paragraph 5 of the draft resolution, she said that her delegation believed that it was important to protect safe havens.

6. Mr. WAHAB (Pakistan) said that Pakistan, which had itself been a victim of cross-border terrorism, unequivocally condemned all forms of international terrorism. His delegation had joined in the consensus on the understanding that the draft resolution was without prejudice to the distinction between terrorism and the legitimate struggle of peoples against foreign occupation and domination recognized in, inter alia, General Assembly resolution 46/51, of 9 December 1991.

7. Mr. MATRI (Libyan Arab Jamahiriya) stressed the need to distinguish between terrorism, which the Libyan Arab Jamahiriya condemned all the more strongly in that it had itself been the victim of terrorist attacks, and the right of peoples to struggle for their independence and sovereignty. His delegation believed that the United Nations should convene an international conference on the question as soon as possible.

8. Mrs. CUETO MILIAN (Cuba) said that her delegation believed that the reference to the role of the Security Council in the second preambular paragraph was sufficient and that paragraph 7 was therefore redundant.

9. The CHAIRMAN said that the Committee had completed its consideration of agenda item 146.

AGENDA ITEM 152: REVIEW OF THE ROLE OF THE TRUSTEESHIP COUNCIL (continued) (A/C.6/50/L.6/Rev.1*)

10. Mr. CASSAR (Malta), introducing draft resolution A/C.6/50/L.6/Rev.1* entitled "Review of the role of the Trusteeship Council", read out the main provisions and called on the Committee to adopt it by consensus.

11. Draft resolution A/C.6/50/L.6/Rev.1* was adopted.

12. The CHAIRMAN said that the Committee had completed its consideration of agenda item 152.

AGENDA ITEM 145: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/C.6/50/L.11/Rev.1, A/C.6/50/L.13, A/C.6/50/L.15)

Draft resolution A/C.6/50/L.11/Rev.1 entitled "United Nations Model Rules for the Conciliation of Disputes between States"

13. The CHAIRMAN announced that Canada and Venezuela had become sponsors of the draft resolution.

14. Mr. CARRANZA (Guatemala) introducing the draft resolution on behalf of the sponsors, said that the most eminent specialists in international law had participated in the formulation of the Model Rules, which incorporated most of the new elements included in the conciliation rules adopted by the Institute of International Law in 1961. Referring to the second preambular paragraph, he said that the concept of experience referred to the provisions traditionally applied at the bilateral level, particularly those of the 1957 European Convention for the Peaceful Settlement of Disputes, and recalled that the very first treaty which had included provisions on conciliation had been concluded between France and Switzerland in 1925. He also said that the innovations referred to in the same paragraph were provisions proposed by Guatemala, on whose initiative the Model Rules had been drawn up, and by the Special Committee.

15. After introducing the main provisions of the draft, he said that the Model Rules were sufficiently flexible to gain the general approval of Member States; he hoped that the draft resolution would be adopted by consensus.

16. Draft resolution A/C.6/50/L.11/Rev.1 was adopted.

17. Mrs. PEÑA (Peru) said that her delegation had joined in the consensus on the understanding that the Model Rules would be applied in strict respect for the provisions of paragraph 2 of the draft resolution and article 1, paragraph 1 of the Model Rules.

Draft resolution A/C.6/50/L.13: Implementation of Charter provisions related to assistance to third States affected by the application of sanctions

18. Ms. FLORES (Mexico), speaking as Chairman of the Working Group on the implementation of Charter provisions related to assistance to third States affected by the application of sanctions, informed the Committee of the work done by the Working Group since its establishment on 25 September 1995. She recalled that the Working Group had begun by conducting a first reading of the report of the Secretary-General on assistance to third States affected by the application of sanctions (A/50/361), following which she had prepared a working paper reflecting the main issues discussed. The Working Group had then considered a draft resolution submitted by the European Union, the working paper, the proposals contained in document A/AC.182/L.79 of the Special Committee on the Charter and in the Agenda for Peace, and other proposals made in the Working Group. On the basis of the Working Group's deliberations, the Chairman had submitted the text of a draft resolution, which had been the subject of lengthy negotiation and revision by the Working Group, and of which document A/C.6/50/L.13 represented the final version.

19. She drew attention to the main provisions of the draft resolution, which reflected lengthy negotiation and represented a compromise text, and expressed the hope that the Committee could adopt the text without a vote.

20. Draft resolution A/C.6/50/L.13 was adopted by consensus.

Draft resolution A/C.6/50/L.15: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

21. Mr. MUBARAK (Egypt), introducing draft resolution A/C.6/50/L.15, said that following in-depth informal consultations a compromise text had been drafted on the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. Finland, Japan and Portugal had joined the sponsors of the draft resolution.

22. The text was essentially based on the recommendations formulated by the Special Committee at a meeting in March as well as on the work done by the Sixth Committee on that item. In particular, it reflected the recommendations adopted by the Special Committee on the question of its membership and the deletion of the "enemy State" provisions of the Charter. He trusted that the draft resolution would be adopted without a vote as an indication of the importance of the work carried out by the Special Committee and as a reflection of its being opened up to all Members of the United Nations.

23. Ms. FLORES (Mexico) said that her delegation would vote in favour of draft resolution A/C.6/50/L.15. She particularly supported paragraph 5, by which the Special Committee would be open to all States Members of the Organization. As far as her delegation was concerned, consensus must be understood as a guideline for the conduct of the Committee's work, and not as a method of work.

24. Mr. HONG (Democratic People's Republic of Korea) stated the reasons why his delegation was requesting a recorded vote on the draft resolution.

25. Firstly, both the preamble and operative paragraphs of the draft resolution contained, concerning the deletion of the "enemy State" clauses from the United Nations Charter, paragraphs which were totally detrimental to the sovereignty and fundamental interests of the Korean people. Neither the passage of time nor the great changes in the international political arena provided any justification for allowing Japan to benefit from such a deletion. The question should be viewed exclusively from the perspective of the liquidation by the States concerned of their past crimes. The Democratic People's Republic of Korea was not opposed to the deletion of the "enemy State" clauses as such, but to the approach whereby Japan would be treated on an equal footing with other countries, such as Germany, which had liquidated their past in a comparatively conscious manner. His delegation thus categorically rejected all the paragraphs of the draft resolution concerning the deletion of the "enemy State" clauses.

26. Secondly, the draft resolution did not properly reflect the discussion which had taken place in the Sixth Committee and in the informal consultations. His delegation had expressed its strong opposition to the deletion of the "enemy State" clauses from the Charter and had proposed that its views should be reflected in the draft resolution. Moreover, the views of other delegations on various issues had not been taken into account and the draft resolution was biased. The whole process of consultation clearly showed that there was a lack of democracy, impartiality and justice at the United Nations.

27. He requested a recorded vote on draft resolution A/C.6/50/L.15.

28. At the request of the representative of the Democratic People's Republic of Korea, a recorded vote was taken on draft resolution A/C.6/50/L.15.

In favour: Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Barbados, Belarus, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kazakstan, Kenya, Kuwait, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Singapore, Slovakia, South Africa, Spain, Suriname, Swaziland, Sweden, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: None.

Abstaining: Cuba, Democratic People's Republic of Korea, Lebanon, Libyan Arab Jamahiriya, Sri Lanka, Sudan.

29. Draft resolution A/C.6/50/L.15 was adopted by 122 votes to none, with 6 abstentions.

30. Mr. FULCI (Italy) welcomed the adoption of draft resolution A/C.6/50/L.15. His Government was particularly gratified by the paragraphs regarding the deletion of the "enemy State" clauses from the Charter of the United Nations. He hoped that the adoption of the resolution would bring about rapid results, since the proposed changes were long overdue. Deletion of the "enemy State" clauses would close a sad chapter in modern history and allow the United Nations to make a fresh start on the occasion of its fiftieth anniversary. It would in fact mark the beginning of the true equality of all its Members proclaimed in the Preamble to the Charter, which reaffirmed the faith of the United Nations in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small.

31. Mr. KANEHARA (Japan) welcomed the adoption of draft resolution A/C.6/50/L.15. As he did not wish to make a political statement before the Sixth Committee, which was a legal body, he would merely note that his country's position, as previously expressed to the Committee, remained unchanged.

32. Mr. MATRI (Libyan Arab Jamahiriya) said he thought the draft resolution which had just been adopted should be part of a general revision of the Charter which would take into account the changes that had taken place in the world and would abolish the privileges which, despite those changes, a small number of States continued to enjoy at the United Nations.

33. Mrs. CUETO MILIAN (Cuba) said that the draft resolution just adopted would have great significance for the future work of the Committee. The reason for her delegation's abstention was procedural, rather than reservation to the substance of the draft. Having participated in all the negotiations which had resulted in the wording of the text adopted, her delegation had supported the efforts of the Democratic People's Republic of Korea to ensure that its views were reflected in the draft resolution. Far from making the text of the resolution unbalanced, doing so would have reflected the tenor of the negotiations more accurately. Consensus could not be used to silence a delegation.

34. Mr. LEGAL (France) expressed full support for the draft resolution and the deletion of the "enemy State" clauses in the Charter.

35. However, his delegation did not favour the idea of changing the composition of the Special Committee. Nevertheless, it had voted in favour of the draft resolution since it stipulated that consensus would be the method used within the Committee for decision-making, which was in keeping with the technical nature of bodies such as the Special Committee when they were open-ended. Furthermore, the Committee had always followed that practice at its recent sessions. The procedure for the adoption of recommendations would therefore be

the same as used by other groups, such as the Open-ended High-level Working Group on the strengthening of the United Nations system established by General Assembly resolution 49/252.

36. The CHAIRMAN announced that the Committee had concluded its examination of agenda item 145.

AGENDA ITEM 142: ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT (continued) (A/C.6/50/L.14)

Draft resolution A/C.6/50/L.14: Establishment of an international criminal court)

37. Mrs. FLORES (Mexico) said that adoption of the draft resolution would be a decisive step towards the establishment of an international criminal court. Her delegation would join the consensus on the draft resolution and would participate in the efforts to resolve the substantive problems that had arisen during the Special Committee's discussions and to prepare a text that could meet with general approval and pave the way for the creation of an impartial, independent and genuinely universal jurisdiction.

38. Draft resolution A/C.6/50/L.14 was adopted.

39. Mr. ZHANG Kening (China) said that his delegation had joined the consensus in a spirit of compromise, in the belief that the resolution would serve as a basis for a text which would establish an international criminal court, thereby ensuring universal acceptance of its jurisprudence. However, there were still administrative questions to be resolved. Many developing countries had not taken part in the work of the Ad Hoc Committee because of their lack of human and financial resources. It also seemed to his delegation premature to establish a working group of the International Law Commission in 1996 and unrealistic to think that such a working group could make significant progress.

TRIBUTE TO THE SECRETARY OF THE COMMITTEE

40. The CHAIRMAN expressed the gratitude of all members of the Committee to the Secretary of the Committee, Miss Jacqueline Dauchy, Director of the Codification Division, who would retire in February 1996, and paid a tribute to the qualities of competence, commitment, tact and impartiality which she had demonstrated throughout a full career of service to the Organization, to the great benefit of all delegations and the Committee. Mr. BIGGAR (Ireland), Mr. ROSENSTOCK (United States of America), Mr. ROSENNE (Israel) and the Under-Secretary-General for Legal Affairs and the Legal Counsel endorsed the tribute.

COMPLETION OF THE COMMITTEE'S WORK

41. After an exchange of courtesies in which Mr. REPISHTI (Albania), Mr. DANIELL (South Africa), Mr. PEDRAZA (Bolivia), Mr. LEGAL (France) and Mr. RAO (India) spoke on behalf of the regional groups of States, the CHAIRMAN declared that the Sixth Committee had completed its work for the fiftieth session, which was also the fiftieth anniversary of the Organization.

The meeting rose at 5.30 p.m.